

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 10-0244 JB

MYRON ROBERT LEE,

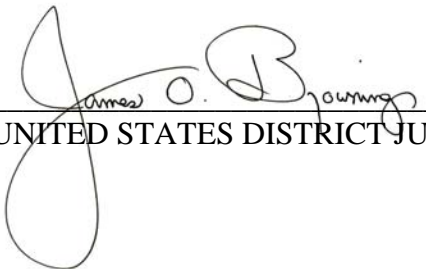
Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on the Defendant's Sentencing Memorandum, filed September 29, 2010 (Doc. 29). The Court held a sentencing hearing on October 13, 2010. The primary issue is whether the Court should vary from the advisory guideline sentence because of various factors, including Defendant Myron Robert Lee's concerted efforts to correct his behavior -- for example, successfully completing an alcohol treatment program -- and Lee's history and characteristics. Approximately a week before the hearing, Lee relapsed, was arrested and placed in custody. At the time of the hearing, Lee was in custody. Lee's probation officer did not provide the Court with the report of Lee's violation before the hearing. After a careful consideration of Lee's request for a variance, the Court concludes that the punishment set forth in the guidelines is appropriate for this offense. The offense level is 20 and the criminal history category is I. The guideline sentencing range is 33 months to 41 months. The Court determines that, although it should not vary from the advisory guidelines sentence, a sentence at the low end of the guidelines range is appropriate. The Court sentences Lee to a term of 33 months as to each count, to run concurrently. The Court is not convinced that Lee has put his drinking problems behind him and

believes that a guidelines sentence serves to protect the public. The Court also believes, however, that a low-end guidelines sentence takes into account Lee's concerted efforts to correct his behavior and his history and characteristics while promoting respect for the law and providing adequate deterrence. For reasons stated at the hearing and for other reasons consistent therewith, the Court will deny Lee's request for a variance.

**IT IS ORDERED** that Defendant Myron Robert Lee's request for a variance in his Sentencing Memorandum, filed September 29, 2010 (Doc. 29) is denied. The Court will commit Lee to the custody of the Bureau of Prisons for a term of 33 months as to each count, to run concurrently, and will place Lee on supervised release for 3 years as to each count, to run concurrently. The Court also orders Lee to pay restitution in the amount of \$126,120.87.

  
UNITED STATES DISTRICT JUDGE

*Counsel:*

Kenneth J. Gonzales  
United States Attorney  
Kyle T. Nayback  
Assistant United State Attorney  
Albuquerque, New Mexico

*Attorneys for Plaintiff*

John F. Robbenhaar  
Assistant Federal Public Defender  
Albuquerque, New Mexico

*Attorney for Defendant*